IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3282 of 1988

M/s Rajesh Corporation .. Petitioner

vs

The Union of India & ors.. Respondents

Mr.Vinod Kothari i.b Apex Law for Petitioner

Mr.K.R.Chaudhary with Ms.S.V.Bharucha for Respondents

Mr. S.P.Jain Partner of Petitioner present

CORAM : Dr.S.Radhakrishnan and V.C.Daga, JJ

DATE : 27th June, 2007

P.C.

Heard rival parties. Perused record.

1. The petition is directed against the act of the respondents seeking to impose customs duty in excess of 10 % on the goods imported by the petitioners covered under the bill of entry at Exh.A and for restraining them from levying or recovering the duty in excess of 10 % on the said goods and seeking direction to the respondents to clear the goods of the petitioners on payment of duty at the rate of 10 %.

2. This Court while granting Rule had passed an order order in terms of minutes oforder dated 10th November, 1988 and granted interim relief in favour

of the petitioner subject to furnishing bank guarantee and on undertaking of the petitioners to pay duty at the rate of 10 %. The interim relief operated in favour of the petitioners. Goods were allowed to be cleared. What remains is the adjudication of duty liability.

3. Having heard the parties in the light of the issues raised in the petition, it is clear that the disputed questions of fact raised in this petition cannot be investigated or adjudicated upon by this Court in its writ jurisdiction. In this view of the matter, it is necessary to permit the respondents to complete the process of adjudication, which the respondents are willing to complete in the prescribed time frame.

4. The respondents, in the above backdrop are directed to issue show-cause-notice to the petitioners within eight weeks from the date of receipt of the writ, to which the petitioners shall reply within four weeks from the date of receipt of show-cause-notice. The respondents are directed to complete the process of adjudication within eight weeks from the date of receipt of the reply to the show-cause-notice after following the principles of natural justice. The petitioner undertakes to co-operate with the respondents. All rival contentions are kept open.

5. The learned counsel for the petitioners makes a statement that the bank guarantee furnished by the petitioners in pursuance of the minutes of order dated 10th November, 1988 shall be kept renewed until final disposal of the adjudication process and for four weeks thereafter.

6. It is made clear that in the event the petitioners are found to be liable to pay duty, then the amount of duty shall carry simple interest at the rate of 12 % per annum from the date of clearance of goods till the date of payment in full and final.

With the above direction, petition stands disposed of in terms of this order with no order as to costs.

The parties to act on ordinary copy of this order duly authenticated by Associate of this Court.

(V.C.Daga, J) (Dr.S.Radhakrishnan, J)